

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHAWN STEWART,)	
)	Civil Action
Plaintiff)	No. 2012-cv-05802
)	
vs.)	
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of)	
Social Security,)	
)	
Defendant)	
)	
SOCIAL SECURITY ADMINISTRATION)	
)	
Interested Party)	

O R D E R

NOW, this 20th day of March, 2015, upon consideration
of the following documents:

- (1) Decision of Administrative Law Judge John M. Fitzpatrick dated July 21, 2011;
- (2) Complaint filed November 26, 2012;
- (3) Answer filed March 14, 2013;
- (4) Plaintiff's Motion for Summary Judgment or in the Alternative, Plaintiff's Motion for Remand, which motion was filed April 22, 2013; together with

Plaintiff's Brief and Statement of
Issues in Support of Request for Review;
- (5) Defendant's Response to Request for Review of Plaintiff, which response was filed June 24, 2013;
- (6) Plaintiff's Reply Brief filed July 3, 2013;
- (7) Report and Recommendation of United States Magistrate Judge M. Faith Angell dated and filed May 30, 2014; and

- (8) Plaintiff's Objection to the Report and Recommendation of the Magistrate Judge, which objections were filed June 6, 2014;

after a through review of the record in this matter; it appearing that plaintiff's objections to Magistrate Judge Angell's Report and Recommendation are essentially a restatement of the issues raised in Plaintiff's Brief and Statement of Issues in Support of Request for Review, and are without merit; it further appearing after de novo review of this matter that Magistrate Judge Angell's Report and Recommendation correctly determined the legal and factual issues presented,

IT IS ORDERED that Magistrate Judge Angell's Report and Recommendation is approved and adopted.¹

IT IS FURTHER ORDERED that the decision of the Commissioner is affirmed.

IT IS FURTHER ORDERED that plaintiff's request for review is denied.

¹ The extent of review of a Magistrate Judge's Report and Recommendation is committed to the discretion of the district court. Jozefick v. Shalala, 854 F.Supp. 342, 347 (M.D.Pa. 1994). However, the district court must review de novo those portions of the Report and Recommendation to which objection is made. 28 U.S.C. § 636(b)(1)(c). The court may "accept, reject or modify, in whole or in part, the magistrate's findings or recommendations." Brophy v. Halter, 153 F.Supp.2d 667, 669 (E.D.Pa. 2001); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania.

Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. I may accept, reject or modify, in whole or in part, any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

IT IS FURTHER ORDERED that plaintiff's alternate motion for remand is denied.

IT IS FURTHER ORDERED that plaintiff's motion for summary judgment is dismissed.²

IT IS FURTHER ORDERED that plaintiff's objections to the Report and Recommendation of Magistrate Judge Angell are overruled.³

IT IS FURTHER ORDERED that judgment is granted in favor of defendant Carolyn W. Colvin, Acting Commissioner of Social Security and against plaintiff Shawn Stewart.

IT IS FURTHER ORDERED that the Clerk of Court shall close this civil action for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge

² Pursuant to paragraph 1 of the current Procedural Order for Social Security Review, plaintiff is required to serve a summons and complaint upon defendant; and pursuant to paragraph 3, plaintiff is required to file and serve "Plaintiff's Brief and Statement of Issues in Support of Request for Review", which plaintiff did on April 22, 2013. Accordingly, a motion for summary judgment is no longer a required procedure in an action seeking review of a decision by the Commissioner of Social Security denying plaintiff social security benefits. Therefore, I have dismissed plaintiff's motion for summary judgment.

³ As noted above, plaintiff's objections to Magistrate Judge Angell's Report and Recommendation merely restate the underlying claims contained in her request for review. Moreover, upon review of the Report and Recommendation, together with de novo review of the entire record, I conclude that the Report and Recommendation correctly determines the legal and factual issues raised by plaintiff.

Accordingly, I approve and adopt Magistrate Judge Angell's Report and Recommendation and overrule plaintiff's objections to it.